IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Sharad Joshi v. Raj.Tribal Area Development Cooperative Federation Ltd., Udaipur & Ors.

S.B.CIVIL WRIT PETITION NO.6649/1991
under Article 226 of the Constitution of India.

Date of Order : 12th September, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Rajesh Joshi, for the petitioner.
Mr. O.P.Rathi, Dy.Govt.Advocate.
Mr. Rajendra Mehta]
Mr. Lalit Kawadia] for the respondents.

BY THE COURT :

By this petition for writ the petitioner has sought a direction for respondent Tribal Area Development Cooperative Federation Ltd. to promote him as Assistant Manager and further to make fixation of petitioner's pay in the pay scale pertaining to Loan Supervisor as revised time to time. In alternative the petitioner has also sought a direction to declare him as an employee of Central Cooperative Bank Ltd., Chittorgarh.

While arguing the case counsel for the petitioner has confined his claim to the extent of declaration of him as an employee of Central Cooperative Bank Ltd., Chittorgarh.

The facts in brief are that the petitioner by an order dated 12.7.1977 was appointed as Lekhapal-cum-Store Keeper in services of Rajasthan Tribal Area Development Cooperative Nigam Ltd.. The Registrar, Cooperative Societies, Government of Rajasthan, Jaipur while exercising powers under Rule 41 of the Rajasthan Cooperative Societies Rules, 1966 (hereinafter referred to as “the Rules of 1966”) framed the Rules named as Rajasthan Agricultural Multipurpose Cooperative Societies Rules, 1979 (hereinafter referred to as “the Rules of 1979”). An amendment was introduced in the Rules of 1979 on 17.8.1982 designating Lekhapal-cum-Store Keeper working in LAMPS as Loan Supervisor. The petitioner at the relevant time was working in the LAMPS, therefore, in pursuant to the amendment introduced on 17.8.1982 he also became a Loan Supervisor.

Under an order dated 3.4.1984, 44 Managers in LAMPS who were designated as Loan Supervisors under the order dated 17.8.1982 were placed on deputation as Loan Supervisors with the LAMPS they were working and

they were also taken on the cadre strength of the Loan Supervisors of the Central Cooperative Bank with whom the LAMPS was associated. The Registrar, Cooperative Societies, Government of Rajasthan, in the year 1987 arrived at an agreement with Rajasthan State Cooperative Wrin Paryavekshak Union to the extent that the Loan Supervisors were working with Central Cooperative Banks shall be treated as employees of the bank concerned w.e.f. 1.7.1987. It is contended by the petitioner that he was amongst the 44 managers who were designated as Loan Supervisors under the order dated 17.8.1982 and was placed at the disposal of Central Cooperative Bank Ltd., Chittorgarh under the order dated 3.4.1984.

The petitioner on basis of agreement referred above dated 10.6.1987 sought declaration to be an employee of the Central Cooperative Bank Ltd., Chittorgarh w.e.f. 1.7.1987.

A reply to the writ petition has been filed on behalf of the Registrar, Cooperative Societies, Department of Cooperatives, Government of Rajasthan, Jaipur stating therein that the service of the petitioner was place at the disposal of Central Cooperative Bank Ltd., Chittorgarh and, therefore, as a consequence of agreement dated 10.6.1987 he became an employee of the bank. A specific stand is taken by the Registrar, Cooperative Societies that service of

the petitioner was placed as Loan Supervisor with Central Cooperative Bank, therefore, his salary and further fixation are required to be made by the bank concerned.

On behalf of respondent Central Cooperative Bank Ltd., Chittorgarh an affidavit in counter to the writ petition is submitted sworn-in by Shri S.N.Gangwal, Sr. Manager in the bank. The stand of the bank is that the petitioner was appointed with Rajasthan Tribal Area Development Cooperative Federation and, therefore, he is not an employee of the bank. It is also stated in the counter affidavit that the agreement dated 10.6.1987 is having application to the Loan Supervisors appointed under the Loan Supervisors Selection, Appointment and Service Rules, 1976. The petitioner was not appointed under those Rules, therefore, the agreement dated 1.5.1987 could not be made applicable for him.

Heard counsel for the parties.

From the facts stated above it is clear that the petitioner was appointed as Lekhapal-cum-Store Keeper with Rajasthan Tribal Area Development Cooperative Nigam Ltd. and subsequently he was designated as Loan Supervisor. On 17.8.1982 he was working with LAMPS associated with Central Cooperative Bank Ltd., Chittorgarh. The petitioner also became

part of the cadre strength of Loan Supervisors working with Central Cooperative Bank in pursuant to the order dated 3.4.1984. By order dated 3.4.1984 the Loan Supervisors working with 44 LAMPS were taken on the cadre strength of the Loan Supervisors of the bank concerned. They were also ordered to be placed in the seniority list of the Loan Supervisors of the bank concerned from the date of their appointment as Manager with the LAMPS.

In view of it the petitioner and other similarly situated persons became employees of the Central Cooperative Bank and they were also placed in the seniority list of Loan Supervisors of that bank. Once they were taken in the cadre of Loan Supervisors of the bank concerned, their services are required to be governed under the Rules of 1976. The Registrar, Cooperative Societies and the Rajasthan Cooperative Wrin Paryavekshak Union entered into an agreement on 10.6.1987 as a consequence of which the Loan Supervisors were treated as employees of the Central Cooperative Societies Bank w.e.f. 1.7.1987. The petitioner at the relevant time was on cadre strength of the Loan Supervisors of Central Cooperative Bank Ltd., Chittorgarh, therefore, he also became employee of the Central Cooperative Bank Ltd., Chittorgarh w.e.f. 1.7.1987. In view of it the stand of the bank that the petitioner is not its employee is erroneous. The petitioner became employee of the bank w.e.f.

1.7.1987 and therefore, he is entitled to get all consequential benefits being an employee of the bank.

In view of discussion above the writ petition succeeds. The same, therefore, is allowed. The petitioner is declared to be an employee of the Central Cooperative Bank Ltd., Chittorgarh in pursuant to the agreement dated 10.6.1987. He shall be entitled for all consequential benefits flowing as the consequence of the declaration made above.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.